

**NOTICE PURSUANT TO BLR 3007(C)**

THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTING IS ASKING THE COURT TO DISALLOW THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE OBJECTING PARTY WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A RESPONSE WITHIN 30 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED.

A HEARING REGARDING THIS MATTER BEFORE THE HONORABLE BANKRUPTCY JUDGE JEFF BOHM WILL BE SET FOR TIME AND DATE TO BE DETERMINED BY THE COURT.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE:	§	
	§	
BRIAN KEITH TYSON	§	Case No. 16-35727-H4-13
	§	
	§	
DEBTOR(S)	§	Chapter 13

**OBJECTION TO PROOF OF CLAIM OF  
DEPARTMENT OF TREASURY - INTERNAL REVENUE SERVICE  
CLAIM NO. 24**

Debtor in the above-entitled and numbered bankruptcy case objects to the Proof of Claim No. 24, dated March 24, 2017 and filed by DEPARTMENT OF TREASURY -

INTERNAL REVENUE SERVICE on March 24, 2017. The Proof of Claim, alleges a total claim for pre-petition income taxes in the total amount of \$134,634.47, and as a basis for this objection would respectfully show the Court as follows:

1. The Proof of Claim No. 24, filed by DEPARTMENT OF TREASURY - INTERNAL REVENUE SERVICE, alleges a total claim for pre-petition income taxes in the total amount of \$134,634.47 which is filed as a unsecured, priority claim in the amount of \$8,950.81 pursuant to 11 U.S.C § 507(a)(8) and an unsecured general claim in the amount of \$125,683.66. The Proof of Claim No. 24 filed with this Court is attached hereto and incorporated herein by reference as Exhibit "A."
2. The INTERNAL REVENUE SERVICE in it's Proof of Claim alleges that the Debtor has failed to file Individual Federal Tax Return (Form 1040), for calendar year or tax period 2014 with federal priority tax liability of in the amount of \$8,480.60 pursuant to 11 U.S.C § 507(a)(8) and interest to petition date of \$470.21 for a total estimated tax liability of \$8,950.81. The Debtor has in fact filed the aforementioned 2014 - 1040 Federal Tax Return in which the INTERNAL REVENUE SERVICE acknowledged receipt of said tax return in written correspondence dated January 25, 2017. The INTERNAL REVENUE SERVICE'S tax return filed acknowledgement letter is attached hereto and incorporated by reference as Exhibit "B."
3. On March 29, 2017 the Debtor by and through the undersigned counsel in response to the Proof of Claim subject to this Objection and In order to insure compliance with U.S. Bankruptcy Code, Section 1322(a)(2), re-filed a "Blue Ink"

signed Individual Federal Tax Return (Form 1040), for calendar year or tax period 2014 with the Internal Revenue Service Insolvency Section, Houston, Texas showing zero (0) tax liability in addition to an overpayment of federal taxes in the amount of \$14,653.00 in which the Debtor acknowledges is subject to a right of set off or counterclaim thus decreasing the Debtor's total pre-petition tax liability. The Debtor's Individual Federal Tax Return (Form 1040), for calendar year 2014 and the "Blue Ink" Transmittal Letter are both attached hereto and incorporated herein by reference as Exhibits "C" and "D" respectively.

4. The Debtor's objection is thus based on the DEPARTMENT OF TREASURY - INTERNAL REVENUE SERVICE, alleging an incorrect total claim for pre-petition income taxes in the total amount of \$134,634.47 which is based on the aforementioned unified tax return, approximated priority tax and interest liabilities, an unaccounted over payment of federal taxes of \$14,653.00 for which the Claimant's Proof of Claim be disallowed in its entirety or be allowed for a total amended claim for prepetition income taxes in the amount of \$111,030.66 comprised solely as an unsecured general claim.

WHEREFORE PREMISES CONSIDERED, Debtor respectfully requests that this Honorable Court disallow Proof of Claim No. 24, filed by DEPARTMENT OF TREASURY - INTERNAL REVENUE SERVICE, alleging pre-petition income taxes in the total amount of \$134,634.47; or in the alternative, order the Claimant to properly reassess the Debtor's tax return for calendar year 2014, and in general correct his actual tax liabilities, specifically the tax liabilities for Tax Years 2010 and 2014 as reflected in the aforementioned Individual 2014 Federal Tax Return (Form 1040),

properly account for the Debtor's tax overpayment credits and amend their Proof of Claim accordingly and as applicable.

Date: April 1, 2017

Respectfully submitted,

**JESSE AGUINAGA,  
ATTORNEY AT LAW, P.C.**

//s// Jesse Aguinaga

---

Jesse Aguinaga, State Bar No. 00798026  
The Center, Suite 670  
8323 South West Freeway, Suite 670  
Houston, Texas 77074  
713/772-7986 - Phone; 713/772-7725 - Fax

**ATTORNEY FOR DEBTOR(S)**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>IN RE:</b>	§	
	§	
<b>BRIAN KEITH TYSON</b>	§	<b>Case No. 16-35727-H4-13</b>
	§	
	§	
<b>DEBTOR(S)</b>	§	<b>Chapter 13</b>

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on April 1, 2017, a true and correct copy of the foregoing Objection to Amended Proof of Claim No. 24, was served by U.S. First Class mail and/or ECF Transmission on the parties listed below:

**U.S. ATTORNEY GENERAL**

Jeff Sessions  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

**UNITED STATES ATTORNEY**

Kenneth Magidson  
U.S. Attorney's Office  
Southern District of Texas  
1000 Louisiana, Ste. 2300  
Houston, TX 77002

**ASSISTANT UNITED STATES ATTORNEY**

Richard A. Kincheloe  
United States Attorney's Office  
1000 Louisiana St., Suite 2300  
Houston, TX 77002

**U.S. TRUSTEE**

Judy A. Robbins  
515 Rusk  
Houston, TX 77002

**CHAPTER 13 TRUSTEE**

David G. Peake  
9660 Hillcroft, Suite 430  
Houston, TX 77096

INTERNAL REVENUE SERVICE

Annie Ray, Internal Revenue Service - Bankruptcy Supervisor  
1919 Smith Street, Stop 5024HOU  
Houston, TX 77002

INTERNAL REVENUE SERVICE

Dorcas Basaldua, Internal Revenue Service - Revenue Officer  
1919 Smith Street, Stop 5024HOU  
Houston, TX 77002

INTERNAL REVENUE SERVICE

M. Rita Galvan, Internal Revenue Service - Bankruptcy Specialist  
1919 Smith Street, Stop 5025HOU  
Houston, TX 77002

DEPARTMENT OF TREASURY

Internal Revenue Service  
Stop 6525 (SC CIS)  
Kansas City, MO 64999-0025

DEBTOR(S)

Brian K. Tyson  
123 Reese Run Street  
Baytown, TX 77523-9194

**JESSE AGUINAGA,  
ATTORNEY AT LAW, P.C.**

//s// Jesse Aguinaga

---

Jesse Aguinaga, State Bar No. 00798026  
The Center, Suite 670  
8323 South West Freeway, Suite 670  
Houston, Texas 77074  
713/772-7986 - Phone; 713/772-7725 - Fax

**ATTORNEY FOR DEBTOR(S)**